

REMARKS

Initially, applicant would like to thank the Examiner for the courteous and helpful telephonic interviews he has conducted with applicant's undersigned representative, as well as his other efforts as discussed at item 12 of the Office Action. During such interviews, substantial efforts were made to come to some agreement for placing the application in condition for allowance, although no such agreement was ever finally reached.

Upon entry of the present amendment, the claims in the application the claims in the application are claims 1-9 and 11-22, of which claims 1, 9, 18 and 19 are independent.

Independent claim 1 is amended to further define that the snowboard is an elevated deck snowboard, that the step board accommodates both feet of a user, the connecting assembly includes plural connecting members and is disposed at intermediate portions of the slide and step boards inwardly of their peripheral edges, and that the slide board has a narrower lateral width than the step board. Claim 1 is further amended to delete the discussion that the step board is fixed in its spaced and substantially parallel relation to the slide board by the connecting assembly. Independent claim 9 is similarly amended to define that the snowboard is an elevated deck snowboard, that the step board accommodates both feet of a user, the connecting assembly includes plural connecting members. Independent claim 18 is similarly amended to define that the snowboard is an elevated deck snowboard, that the step board accommodates both feet of a user, connecting assembly is disposed at intermediate portions of the slide and step boards inwardly of their peripheral edges and substantially prohibits at least lateral pivoting movement between the slide and step board during use. Independent claim 19 is similarly amended to further define that the snowboard is an elevated deck snowboard, that the step board accommodates both feet of a user, the connecting assembly is disposed at intermediate portions of the slide and step boards inwardly of their peripheral edges and substantially prohibits at least lateral pivoting movement between the slide and step board during use. Claim 19 also deletes reference to the step board being longer than the slide board. The dependent claims are amended to be consistent with the amended independent claims, and to further define characteristics of the connecting assembly, while new claim 22 further defines that the connecting assembly is closer to lateral peripheral edges of the boards than to longitudinal peripheral edges thereof.

Applicant respectfully submits that the above amendments are fully supported throughout the original disclosure, including the drawing figures. Applicant further respectfully submits that no new matter is introduced by the above amendments.

Still further, applicant respectfully submits that the Examiner's objection to claims 6 and 17 at item 2 of the Office Action is overcome by the above amendments, and accordingly it is respectfully requested that the objection be reconsidered and withdrawn.

Rejections Under 35 USC §102(b)

1. The Examiner has rejected claims 1, 2, 6, 7, 9-11, 13 and 15-18 under 35 USC 102(b) as being anticipated by Dodge (US Patent 4,221,394), as set forth at item 4 of the Office Action. It is the Examiner's position that Dodge's rider supporting assembly for a snowboard includes all of the limitations of the rejected claims, with reference to screws 40, spacers 54 and threaded washers 44 used to secure a boot binding mounting plate 28 to a snowboard 10. Also, the Examiner asserts that the slight (convex) bending of the snowboard, which is permitted and promoted by Dodge's supporting assembly, is not inconsistent with the claimed recitation of a "substantially parallel and fixed relationship".

Applicant's Response

Upon careful consideration and in light of the above amendments to the claims, applicant respectfully submits that each of the present claims 1, 2, 6, 7, 9, 11, 13 and 15-18 are clearly patentably distinct over the Dodge reference, based on the following.

Initially regarding independent claim 1 (and similarly independent claims 9 and 18), applicant respectfully submits that Dodge's snowboard is fundamentally distinct from the claimed snowboard because Dodge's snowboard is not an "elevated deck" type snow board having a deck board elevated above a slide board and which "freely accommodates both feet of a user", as now defined in each of the present claims. Rather, Dodge merely discloses a conventional snowboard having the mounting plate fixed very closely above a middle portion of the snowboard such that boot bindings for a user's feet may be secured to opposite ends of the plate and a rider is then "*rigidly connected* to the snowboard (emphasis added)".

Applicant respectfully submits that this distinction is very significant because with the elevated deck board and the connecting assembly which substantially prevents at least lateral

pivoting movement between the slide and step boards during use, the user is gain a significant leverage in controlling (snow engaging) peripheral edges of the snow board, as also now defined in claim 1. As emphasized throughout the present disclosure, such leverage permits the user to perform advanced tricks associated with skateboards, but previously unattainable with snow boards. Similar arguments pertain to amended claims 9 and 18.

Further, applicant respectfully submits that Dodge's conventional snowboard also does not include or make obvious several other features of the invention as now claimed, including connecting members formed of substantially rigid material and substantially immovably fixed between the slide board and the step board as now defined in claim 7, and similar features in claims 6 and 9.

Applicant notes the Examiner's arguments that: the threaded (metal) fasteners involving screws 40 and spacer 54 prevent any pivoting between the snowboard 10 and mounting plate 28; Dodge's discussion of "slight ... convex bending of the snowboard" as permitted by his fastening system is not considered inconsistent with the claimed language "substantially parallel and fixed relationship" and the like; and the fasteners 40, 54 are made of metal and hence have a substantially fixed height. In this regard, Applicant respectfully submits that (apart from the fact that Dodge's snowboard is not an elevated deck type as discussed above), the *overall* fastening assembly between Dodge's snowboard 10 and mounting plate 28, including the resilient pads 44 and elongate forward openings 38, is specifically required to permit the (bottom) snowboard to move, bend convexly, etc. relative to mounting plate, regardless of any rigidity imparted by the threaded bolts 40 and the spacers 54. Such movement is properly considered at pivoting or relative movement, whereas such movement is contrary to the plain meaning of the claim limitations.

Based on the foregoing, applicant respectfully submits that the Examiner's rejection of claims 1, 2, 6, 7, 9-11, 13 and 15-18 under 35 USC 102(b) as being anticipated by Dodge is overcome in relation to present claims 1, 2, 6, 7, 9, 11, 13 and 16 and 18. Accordingly, it is respectfully requested that such rejection be reconsidered and withdrawn.

2. The Examiner has also rejected claims 1-3, 6, 7, 9-11 and 13-21 under 35 USC 102(b) as being anticipated by Andrew et al. (US Patent 4,320,905), as presented at item 5 of the

Office Action. It is the Examiner's position that Andrew's snow/ice vehicle, including upper platform members 19-21 and bottom hull section 12, meets the limitations of the rejected claims, viewing a flat, lowest portion the hull section 12 as a slide board and upwardly curved ends 14, 15 of the hull section as a connecting assembly.

Applicant's Response

Upon careful consideration and in light of the above amendments to the claims, applicant respectfully submits that each of the present claims 1, 2, 6, 7, 9, 11, 13 and 15-18 are clearly patentably distinct over the Dodge reference, based on the following.

Initially, applicant respectfully submits that Andrew's vehicle is fundamentally distinct from the present invention as defined in each of independent claims 1, 9, 18 and 19 because such vehicle is not an elevated deck snowboard as now claimed, and does not include basic features of the claimed snowboard, including slide and step *boards* disposed in *spaced* and substantially parallel relationship via a connecting assembly disposed inwardly of peripheral edges of the slide and step boards. Rather, the lower member 12 of Andrew's vehicle is concave, hollow hull formed as a *single continuous, integral member* with a substantially flat or curved bottom surface, curved forward and after ends 14, 15 which extend continuously upwardly and longitudinally from the bottom surface, and sides 12a which extend continuously vertically from the bottom surface. Further, Andrew does not disclose any connecting assembly interconnecting the hull 12 to the upper platform of his vehicle (collectively constituted by forward platform member 19, after platform member 20 and central platform member 21), but merely indicates that each of the members 19-21 is "... mounted separately on the hull section." While the *upper* peripheral edges of the hull 12 may have platform members 19-21 mounted thereto, no specific mounting means is disclosed.

Further, the only peripheral edges of Andrew's hull section 12 are connected to the platform members and would not engage the snow/ice during use. For the purpose of engaging the snow and ice, Andrew provides separate (steel) runners 16-18 on the bottom of the hull. In contrast, the peripheral edges of the claimed slide board significantly engage the snow/ice during use, such that additional runners are unnecessary.

Applicant respectfully submits that these distinctions are very significant because the hullled vehicle of Andrew functions very distinctly from the elevated deck snowboard having slide and step boards spaced from each other as disclosed and claimed in the present application, and would not provide a user with the control and leverage necessary to perform complex tricks such as the claimed snowboard.

In this regard, applicant notes the Examiner's allegation that the forward and after ends 14, 15 and the sides 12a of the hull 12 constitute a connecting assembly interconnecting the bottom 13 to the platform members 19-21 within the scope of the claimed. Applicant respectfully traverses such allegation because such interpretation unreasonably distorts the plain meaning of the claim terms "board" and "spaced" as used throughout the present application. The bottom 13 is not a board, but one portion of the curved, hollow hull 12, and it is not *spaced from* the platform members 19-21 because the hull 12 *directly engages* the members 19-21. The spaced and elevated nature of the step board above the slide board is necessary for the enhanced control and leverage afforded by the present invention. Moreover, the above amendment defining that the connecting assembly is disposed inwardly of peripheral edges of the slide and step boards otherwise plainly distinguishes over Andrew.

Based on the foregoing, applicant respectfully submits that the Examiner's rejection of claims 1-3, 6, 7, 9-11 and 13-21 under 35 USC 102(b) as being anticipated by Andrew is overcome in relation to present claims 1, 2, 6, 7, 9, 11, 13 and 16 and 18. Accordingly, it is respectfully requested that such rejection be reconsidered and withdrawn.

Rejections Under 35 USC §103(a)

3. The Examiner has rejected claims 4, 5, 8 and 12 under 35 USC '103(a) as being unpatentable over Dodge or Dodge in view of Tinkler (US Patent 5,544,919) or Laughlin et al. (US Patent 5,915,721), as set forth at items 4 and 7-9 of the Office Action. It is the Examiner's position that Dodge's connecting members are substantially tubular in shape, and that it would have been obvious at the time of the invention to provide Dodge's snowboard with an engagement part in the nose of the mounting plate 28 and a binding on the mounting plate based on the teachings of Tinkler and Laughlin.

Applicant's Response

Upon careful consideration and in light of the above amendments to the claims, applicant respectfully submits that each of the present claims 4, 5, 8 and 12 is clearly patentably distinct over the Dodge, Tinkler and Laughlin references, based on the foregoing arguments regarding the deficiencies of Dodge relative to the independent claims (which are not overcome by any additional teaching of Tinkler and Laughlin), and because the proposed modification based on a select teaching of Tinkler is improperly based on a suggestion coming entirely from the Examiner (guided by impermissible hindsight of applicant's disclosure), rather than from any teaching or suggestion which may be fairly gleaned from the references themselves.

Regarding the proposed modification based on Tinkler, applicant respectfully submits that persons skilled in the art would never consider the same to have been obvious because of the fundamental differences/incompatibilities between Tinkler's skateboard and Dodge's snowboard. With the skate board, a user may freely position his/her feet thereon during use. Conversely, with Dodge's snowboard the user's feet are rigidly mounted to the snowboard via the mounting plate and bindings secured to the plate. Given this difference, there is no motivation to put Tinkler's engagement portion on Dodge's snowboard because the user would be unable to engage same with his/her feet rigidly secured to the mounting plate. Further, given that Dodge's snowboard 10 is significantly longer than the mounting plate 28, Tinkler's engagement portion would presumably be located at a nose part of Dodge's snowboard 10 to have an effect similar to that on Tinkler's skate board. This would be contrary to the claimed invention which provides the engagement portion on the nose part of the step board, which corresponds to the mounting plate 28 in the Examiner's rejection.

Based on the foregoing, applicant respectfully submits that the Examiner's rejections of claims 4, 5, 8 and 12 under 35 USC 103(3) based on the Dodge, Tinkler and Laughlin references are overcome. Accordingly, it is respectfully requested that such rejections be reconsidered and withdrawn.

Other References Cited in the Office Action

The numerous additional references cited and discussed by the Examiner at item 14 of the

Office Action have been considered by applicant, but it is respectfully submitted that these additional references fail to overcome the deficiencies of the Dodge, Andrew, Tinkler and Laughlin references as discussed above relative to the presently claimed invention.

New Claims

New claim 22-24 are believed to be allowable over the references of record based on the foregoing arguments regarding the merits of claims 19 and 19, as well as on the merits of the additional features recited therein.

Conclusion

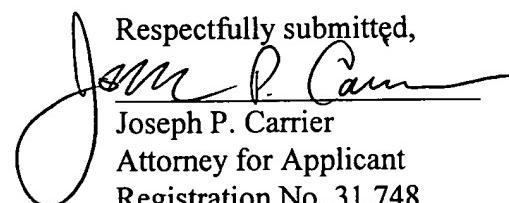
In conclusion, applicant has overcome the Examiner's rejection of claims 1-21 as presented in the Office Action; and moreover, applicant has considered all of the references of record, and it is respectfully submitted that the invention as defined by each of the present claims is clearly patentably distinct thereover.

The application is now believed to be in condition for allowance, and a notice to this effect is earnestly solicited.

If the Examiner is not fully convinced of all of the claims now in the application, applicant respectfully requests that the Examiner telephonically contact applicant's undersigned representative to expeditiously resolve prosecution of the application.

Favorable reconsideration is respectfully requested.

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Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the US Postal Service as First Class Mail in an envelope addressed to Mail Stop Non-Fee Amendment, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on July 7, 2003.

Dated: July 7, 2003

JPC/ms

A handwritten signature in black ink, appearing to read "Jim P. Cain".

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